

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re:

**Val A Rand, Jr. and Roberta M
Rand,**

Debtor.

Chapter 7

Bankruptcy No. 15-30845

Honorable Pamela S. Hollis

COVER SHEET FOR FINAL FEE APPLICATION OF
FACTORLAW FOR COMPENSATION AND
REIMBURSEMENT OF EXPENSES

Name of Applicant:	<u>Law Offices of William J. Factor, Ltd.</u>
Authorized to Provide Professional Services to:	<u>Peter N. Metrou, Chapter 7 Trustee for the estate of Val A Rand, Jr. and Roberta M Rand</u>
Period for Which Compensation is Sought:	<u>July 20, 2016 - September 12, 2017</u>
Amount of Fees Sought:	<u>\$16,567.50</u>
Amount of Expense Reimbursement Sought:	<u>\$219.13</u>
This is an:	<u>Final Application</u>

The aggregate amount of fees and expenses *paid* to the Applicant to date for services rendered and expenses incurred herein is: \$0.00.

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NOTICE OF APPLICATION

Please take notice that on **Friday, October 20, 2017, at 10:00 a.m.** or as soon thereafter as counsel may be heard, the undersigned attorneys shall appear before the Honorable Pamela S. Hollis, United States Bankruptcy Judge for the Northern District of Illinois on the 2nd Floor of the Joliet City Hall building located at 150 West Jefferson Street in Joliet, Illinois, and then and there shall present the attached **Final Fee Application of FactorLaw** a copy of which is attached hereto and herewith served upon you.

Dated: September 21, 2017

FactorLaw

By: /s/ Ariane Holtschlag

One of its attorneys

William J. Factor (6205675)

Ariane Holtschlag (6294327)

FACTORLAW

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CERTIFICATE OF SERVICE

I, Ariane Holtschlag, an attorney, hereby certify that on September 21, 2017, pursuant to Section II.B.4 of the Administrative Procedures for the Case Management/Electronic Case Filing System and Fed.R.Civ.P. 5(a), I caused a copy of the foregoing *Notice of Application* and the accompanying *Final Fee Application of FactorLaw* be served electronically through the Court's Electronic Notice for Registrants on all persons identified as Registrants on the Service List below and by US Mail on all persons identified on the attached service list.

/s/ Ariane Holtschlag

Registrants in the Case

(Service via ECF)

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PYOD, LLC its successors and assigns as
assi of Citibank, N.A.
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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re:

**Val A Rand, Jr. and Roberta M
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Debtor.

Chapter 7

Bankruptcy No. 15-30845

Honorable Pamela S. Hollis

**FACTORLAW'S FINAL APPLICATION FOR
COMPENSATION AND REIMBURSEMENT OF EXPENSES**

Ariane Holtschlag and the Law Office of William J. Factor, Ltd. (collectively "**FactorLaw**"), counsel for Peter N. Metrou, not individually but as the chapter 7 trustee (the "**Trustee**") of the bankruptcy estate (the "**Estate**") of Val A Rand, Jr. and Roberta M Rand (the "**Debtors**"), hereby submits its final application (the "**Application**") pursuant to 11 U.S.C. §§ 330, 331 and 507(a)(1) seeking compensation of **16,567.50** for legal services performed by FactorLaw during the period of July 20, 2016 through September 12, 2017 (the "**Application Period**") and **\$219.13** in expenses incurred in connection with those services. In support of its Application, FactorLaw states as follows:

JURISDICTION

1. This Court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334, and Local Rule 40.3.1(a) of the United States District Court for the Northern District of Illinois.
2. Venue of the above-captioned case (the "**Case**") and of this motion is proper pursuant to 28 U.S.C. §§ 1408 and 1409.
3. This matter is a core proceeding within the meaning of 28 U.S.C. §§ 157(b)(1) and (b)(2)(A).

BACKGROUND

4. On September 9, 2015, (the “*Petition Date*”) the Debtors filed a voluntary petition for relief under chapter 7 of title 11, United States Code (the “*Bankruptcy Code*”), thereby initiating the Case.

5. Subsequent to the Petition Date, the Trustee was appointed as the interim case trustee. The Trustee now serves as permanent trustee and is charged with administering all property of the Estate.

6. The Court approved the Trustee’s retention of FactorLaw effective as of July 20, 2016 to investigate certain assets of the Estate.

7. Among the assets of the Estate were various financial accounts, and a claim against the Debtors and insiders of Debtors for potential fraudulent transfers.

8. On August 19, 2016, this Court authorized the Trustee to examine the Debtors pursuant to Rule 2004 to investigate pre-petition transfers and claims of exemption made by the Debtors in certain annuity contracts.

9. The Trustee uncovered several questionable transactions and potential fraudulent transfers totaling approximately \$170,000 over the two-year period leading up to the Petition Date. The Debtors have alleged certain defenses.

10. Ultimately the Trustee and the Defendants reached a settlement whereby the Debtors surrendered the full value of two of the annuity contracts totaling over \$149,000, which settlement was approved by this Court on September 1, 2017.

11. The settlement has now been fully consummated and the Trustee is preparing to file his final report.

FEE APPLICATION

I. Services performed.

12. FactorLaw maintains contemporaneous written records of the time expended by its professionals.

13. Such records for the Case, copies of which are grouped and attached hereto as **Exhibit 1**, set forth in detail: (a) the services rendered by FactorLaw (the “**Services**”) on behalf of the Trustee, (b) the dates upon which such Services were rendered; (c) the amount of time spent on the Services; and (d) the professionals who performed the Services.

1. Summary of Services by professional.

14. FactorLaw spent a total of 59.7 hours at a cost of \$16,567.50 in connection with this Case during the Application Period.

15. A breakdown of the professionals providing Services is as follows:

Professional	Title	Hourly Rate	Total Hours	Value
Ariane Holtschlag	Associate	\$275/\$325 ¹	48.5	\$13,557.50
Julia D. Loper	Associate	\$275	10.8	\$2,970.00
Danielle Ranallo	Paralegal	\$100	0.4	\$40.00
Totals:			59.7	\$16,567.50

A. Itemization of fees by category of Services rendered.

16. **Case Administration.** FactorLaw spent a total of 5.4 hours at a cost of \$1,545.00 on matters relating to case administration.

17. A breakdown of the professionals providing Services in this category is as follows:

¹ Ms. Holtschlag’s hourly rate was increased to \$325.00 effective June 1, 2017 in the ordinary course of FactorLaw’s annual rate adjustments.

Professional	Title	Hourly Rate	Total Hours	Value
Ariane Holtschlag	Associate	\$275/\$325	3.4	\$995.00
Julia D. Loper	Associate	\$275	2.0	\$550.00
Totals:			5.4	\$1,545.00

18. **Rule 2004 Examinations.** FactorLaw spent a total of 19.3 hours at a cost of \$5,032.50 on matters relating to conducting Rule 2004 examinations.

19. A breakdown of the professionals providing Services in this category is as follows:

Professional	Title	Hourly Rate	Total Hours	Value
Ariane Holtschlag	Associate	\$275/\$325	19.3	\$5,032.50
Totals:			19.3	\$5,032.50

20. **Exemption Issues.** FactorLaw spent a total of 17.9 hours at a cost of \$4,902.50 on matters relating to investigating exemption issues and extending deadlines.

21. A breakdown of the professionals providing Services in this category is as follows:

Professional	Title	Hourly Rate	Total Hours	Value
Ariane Holtschlag	Associate	\$275/\$325	17.5	\$4,862.50
Danielle Ranallo	Paralegal	\$100	.4	\$40.00
Totals:			17.9	\$4,902.50

22. **Settlement.** FactorLaw spent a total of 17.1 hours at a cost of \$5,087.50 on matters relating to settling the Estate's claims against Debtors.

23. A breakdown of the professionals providing Services in this category is as follows:

Professional	Title	Hourly Rate	Total Hours	Value
Ariane Holtschlag	Associate	\$275/\$325	8.3	\$2,667.50
Julia Loper	Associate	\$275	8.8	\$2,420.00
Totals:			17.1	\$5,087.50

II. Expenses

24. FactorLaw incurred \$219.13 in actual and necessary expenses related to this Case. A copy of the expense record is attached hereto as **Exhibit 2.**

25. FactorLaw does not bill its clients or seek compensation in this Application for its overhead expenses. The expenses listed above are actual out of pocket costs advanced by FactorLaw.

III. FactorLaw's retention was appropriate through the Application Period

26. During the Application Period, no agreement or understanding exists between FactorLaw and any other person for the sharing of compensation received or to be received in connection with this Case.

27. No compensation has been promised to FactorLaw other than as disclosed or approved by this Court. FactorLaw certifies that there is no agreement between the firm and any other party regarding the sharing of

fees except with the firm's partners, nor has the firm discussed or negotiated the amount of its fees with any party except the Trustee.

28. Finally, FactorLaw represents that it is and was through the Application Period a disinterested party and does not hold any relationship adverse to the Estate.

BASIS FOR THE REQUESTED RELIEF

29. Under Section 330(a)(1)(A), the Court may award a professional person "reasonable compensation for actual, necessary services rendered[.]" 11 U.S.C. § 330(a)(1)(A). Section 330(a) further provides:

In determining the amount of reasonable compensation to be awarded, the court shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including—(A) the time spent on such services; (B) the rates charged for such services; (C) whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a case under [the Bankruptcy Code]; (D) whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed; and (E) whether the compensation is reasonable, based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this title.

Id. § 330(a)(3).

30. In determining the "extent and value of compensation," the Seventh Circuit endorses the "lodestar" approach—multiplying the number of actual and necessary hours reasonably expended by a reasonable hourly rate[.]" *In re Wildman*, 72 B.R. 700, 712 (Bankr. N.D. Ill. 1987) (Schmetterer, J.); accord *In re UNR Indus.*, 986 F.2d 207, 210-11 (7th Cir. 1993) (lodestar approach provides fair compensation under Section 330); see also *City of Burlington v. Dague*, 505 U.S. 557, 562 (1992) ("The 'lodestar' figure has, as its name suggests, become the guiding light of our fee-shifting jurisprudence. We have established a 'strong presumption' that the lodestar represents the 'reasonable' fee[.]").

31. The Seventh Circuit has mandated that an “attorney’s actual billing rate ... is considered to be the presumptive market rate.” *Small*, 264 F.3d at 707. Moreover, “[t]he lawyer’s regular rate is strongly presumed to be the market rate for his or his services.” *Moriarty v. Svec*, 233 F.3d 955, 965 (7th Cir. 2000) (emphasis added), cert. denied, 532 U.S. 1066 (2001).

32. Additionally, under generally accepted standards, if the services of an attorney employed under Section 327 are reasonably likely to benefit the estate, they should be compensable. See *Andrews & Kurth LLP v. Family Snacks, Inc. (In re Pro-Snax Distributors, Inc.)*, 157 F.3d 414, 421 (5th Cir. 1998); *In re Ames Dep’t Stores, Inc.*, 76 F.3d 66, 71 (2d Cir. 1996); 2 Lawrence P. King, *Collier on Bankruptcy* ¶ 330.04 at 330-43 (15th ed. rev. 1999); cf. 11 U.S.C. § 330(a)(4)(A)(ii)(I). In this same context, “[n]ecessary services are those that aid the professional’s client in fulfilling its duties under the Code.” *In re Ben Franklin Retail Store, Inc.*, 227 B.R. 268, 270 (Bankr. N.D. Ill. 1998) (Barliant, J.).

33. The average hourly billing rate for the professionals who performed the Services—that is, the “lodestar” rate—is \$277.51. This average rate is fair and reasonable in light of the services provided and the experience of FactorLaw’s professionals. Moreover, the compensation requested by the FactorLaw is reasonable based upon the customary compensation charged by comparably skilled practitioners in either non-bankruptcy or bankruptcy cases.

WHEREFORE, FactorLaw respectfully requests that this Court enter an Order:

- A. Allowing FactorLaw compensation for actual, necessary legal services in the amount of **16,567.50**;
- B. Authorizing reimbursement of FactorLaw for actual and necessary expenses in the amount of **\$219.13**;

C. Authorizing the Trustee to pay FactorLaw the allowed compensation and reimbursement of expenses in the total amount of **\$16,786.63**; and

D. Granting such other relief as the Court deems just and equitable.

Dated: September 21, 2017

FactorLaw

By: /s/ Ariane Holtschlag
One of Its attorneys

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